

REMARKS

Claims 11 to 17, 19, and 20 are now pending in the present application.

In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

With respect to paragraph six (6) of the Final Office Action, claims 11 to 17, 19, and 20 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

The Final Office Action states that “though the claims produce what is considered a useful and concrete result, the claims do not require any physical transformation and the invention does not produce a tangible result.” (Final Office Action, p. 3 (emphasis in original)). Further, the Final Office Action states that “[t]he analyzing step of claim 1 only requires an image that may already be stored within a computer, an image that was recorded by an image sensor (thus inducing tangibility and physicality), but the recording itself by the image sensor is not positively recited (and so the method step remains intangible).” (Final Office Action, p. 4 (emphasis in original)).

While the rejections may not be agreed with, to facilitate matters, claim 11 has been rewritten to provide the features of *recording an image by the image sensor*, and *controlling downstream systems based on the signal*, and claim 19 has been rewritten to provide the analogous feature that *the signal is used to control downstream systems*. Support for these features may be found in the Substitute Specification, e.g. at page 4, lines 9 to 11; page 4, lines 17 to 23; and page 8, lines 27 to 32.

Claim 11, as presented, now positively recites the feature of recording an image by the image sensor, as suggested by the Final Office Action, as cited above. Further, claims 11 and 19, as presented, now include a physical transformation outside the computer, as suggested by the Final Office Action, through the feature of controlling downstream systems based on the signal. It is therefore respectfully submitted that claims 11 and 19, as presented, produce a “useful, concrete and tangible” result.

Accordingly, it is respectfully submitted that claim 11, and its dependent claims 12 to 17, and claim 19, and its dependent claim 20, are directed to statutory subject matter.

Withdrawal of the rejections of these claims is therefore respectfully requested.

With respect to paragraph eight (8) of the Final Office Action, claims 11 to 17, 19, and 20 were rejected under 35 U.S.C. § 102(b) as anticipated by Stam et al., U.S. Patent No. 5,923,027.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(a), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'l. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate matters, claims 11 and 19 have been rewritten to provide the feature that *the image sensor is focused on an external region beyond the vehicle*. Support for these features may be found in the Substitute Specification, e.g. at page 3, lines 29 to 36.

The Stam reference does not identically disclose (or even suggest) feature that the image sensor is focused on an external region beyond the vehicle, as provided for in the context of claims 11 and 19, as presented. However, the Final Office Action asserts that “the image sensor [of Stam] is ‘focused’ on anything within its view, including the external region to the vehicle.” (Final Office Action, p. 5). Further, the Final Office Action asserts that “[t]he line-of-sight of the image sensor is ‘focused’ on any particular area of which it images since the image sensor could be rotated within three-dimensionally and cover any other particular line-of-sight.” (Final Office Action, p. 9).

It is respectfully submitted that the Office has not followed the plain meaning of the term “focused,” and has confused the term “focused,” with the terms “view” and “line-of-sight.” Although the image sensor of Stam may include a blurry image of an external region within its “view” or “line-of-sight,” the image sensor of Stam is clearly not “focused” on an external region beyond the vehicle. In this regard, Stam describes its focus throughout its disclosure. For example, Stam states at column 3, lines 60 to 64 that “the present invention causes raindrops and other sources of moisture on the windshield to be sharply focused while distant objects beyond the windshield are severely blurred in the image.” In addition, Stam states at column 4, lines 64 to 66 that “objects at the approximate distance of the windshield are sharply in focus at the image plane while objects at a longer distance are out of focus and blurred.” Further, Stam states at column 8, lines 26 to 29 that “the present invention images the scene in such a way that distant objects are out of focus and objects at the windshield distance are in focus.” Therefore, notwithstanding the plain meaning of the term “focused,” Stam clearly states that its optical system is focused on the windshield, and not on an external region beyond the vehicle.

Therefore, the Stam reference does not identically disclose (or even suggest) the feature in which *the image sensor is focused on an external region beyond the vehicle*, as provided for in the context of claims 11 and 19, as presented.

Accordingly, it is respectfully submitted that claims 11 and 19, as presented, are allowable for at least the reasons explained above. Claims 12 to 17 ultimately depend from claim 11, and claim 20 depends from claim 19, and are therefore allowable for at least the same reasons as claims 11 and 19, as presented.

Withdrawal of the rejections of these claims is therefore respectfully requested.

In sum, it is respectfully submitted that claims 11 to 17, 19, and 20 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

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By:

Gerard A. Messina
(Reg. No. 35,952)

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646

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